

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL CASE NO. 5:19-cv-00163-MR-WCM

JOHNNY RASH O/B/O SHELLY RASH,)
Plaintiff,)
vs.)
ANDREW SAUL,)
Commissioner of Social Security,)
Defendant.)

ORDER

THIS MATTER is before the Court on the Plaintiff's Motion for Summary Judgment [Doc. 12]; the Defendant's Motion for Summary Judgment [Doc. 14]; the Magistrate Judge's Memorandum and Recommendation regarding the disposition of those motions [Doc. 17]; and the Defendant's Objection to the Magistrate's Report [sic] and Recommendation [Doc. 18].

Pursuant to 28 U.S.C. § 636(b) and a specific Order of referral of the District Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider these pending motions in the above-

captioned action and to submit to this Court a recommendation for the disposition of these motions.

On October 23, 2020, the Magistrate Judge entered a Memorandum and Recommendation [Doc. 17] in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding the disposition of these motions [Docs. 12, 14]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The Defendant timely filed an Objection on October 27, 2020. [Doc. 18]. The Plaintiff filed a response on November 2, 2020. [Doc. 19].

After careful consideration of the Magistrate Judge's Memorandum and Recommendation [Doc. 17] and the Defendant's Objection thereto [Doc. 18], the Court finds that the Magistrate Judge's proposed findings of fact are correct and that his proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby overrules the Defendant's Objection and accepts the Magistrate Judge's recommendation that the Commissioner's decision be reversed and that this case be remanded for further proceedings.

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 17] is **ACCEPTED**; the Defendant's Objection thereto [Doc. 18] is **OVERRULED**; the Plaintiff's Motion for Summary Judgment [Doc. 12] is **GRANTED**; and the Defendant's Motion for Summary Judgment [Doc. 14] is **DENIED**. Pursuant to the power of this Court to enter a judgment affirming, modifying or reversing the decision of the Commissioner under Sentence Four of 42 U.S.C. § 405(g), the decision of the Commissioner is **REVERSED** and this case is hereby **REMANDED** for further administrative proceedings consistent with this opinion.

A judgment shall be entered simultaneously herewith.

IT IS SO ORDERED.

Signed: November 16, 2020



Martin Reidinger
Chief United States District Judge

